GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR SECRETARIAT

Labour Dispute.—Industrial Dispute between the Workmen and the Management of Balur Estate, Javali Post Chikmagalur District, belonging to Coffee Lands Ltd. Saklespur.

Award of the Labour Court, District Judge and *Ex-Officio* Presiding Officer, Chikmagalur published.

Read the following papers :

(1) Letter No. 10319/70, dated 18th December 1970, from Sri S. B. Sawkar, District Judge and *Ex-officio* Presiding Officer, Labour Court, Chikmagalur.

IN THE COURT OF THE DISTRICT JUDGE AND *EX-OFFICIO* PRESIDING OFFICER, LABOUR COURT, CHIKMAGALUR.

Dated the 17th day of December 1970

PRESENT :

SRI S. B. SAWKAR, LL.B.,

District Judge and Ex-*officio Presiding Officer, Labour Court, Chikmagalur.*

Reference No. 6/1969.

Sri K. R. Ramadas, Office Clerk, Balur Estate of Coffee Lands Ltd., Saklespur, P.O., Hassan District, represented by the Estates Staff's Union of South India, ESUSI House, Vijayapura, Chikmagalur.

First Party.

vs

The Management of Balur Estate of Coffee Lands Ltd., (Saklespur, P.O., Hassan District), Javali P.O., Chikmagalur District. .. *Second Party.*

The Government of Mysore in their Order No. FCL 774, dated 15th November 1969, referred the dispute between the above two parties for adjudication before this Court, under section 10 of the I.D. Act 1947. The dispute is *re*: the termination of Sri K. R. Ramadas from services with effect from 5th December 1968.

ORDER

This is a reference made by the Government of Mysore under the provisions of Section 10, sub-section (1) (c) of the Industrial Disputes Act, 1947, (hereinafter referred to as the Act of the dispute between the first party K. R. Ramadas, by the Secretary Estates Staff Union, South India, Chikmagalur, and the Second party, the Management of Balur Estate, Javali Post, Chikmagalur District.

2. The points of dispute are :-

(1) Whether the management of Balur Estate, Javali Post, Chikmagalur district. (belonging to the Coffee Lands Ltd., Saklespur) is justified in terminating the services of Sri K. R. Ramdas, Office Clerk, Balur Estate, Javali Post, Chickmagalur District, with effect from 5th December 1968 ?

(2) If not, to what relief is Sri Ramdas entitled ?

3. The case of the first party is that he had joined the service of the second party management about 4 years ago. On 21st October 1968 the second party issued a charge sheet to him alleging (1) that the first party workman had caused loss through negligence, in that he did at Balur Estate between 23rd November 1967 and 31st May 1968, lose a sum of Rs. 54 sent to the Estate by money order on 23rd Nbvember 1967 in pavment for seed coffee and which he failed to hand over to the Assistant Manager and enter it in the accounts. (2) The first party workman thus misappropriated a sum of Rs. 54 referred to above belonging

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to the second party, his employers, having been received by him by money order towards payment for seed coffee by not handing over the same to the second party and appropriating the same to himself. The second party did not afford any opportunity to explain the circumstances to the workman, but proceeded to hold an enquiry on 25th October 1968. The enquiry thus held is against the principles of natural justice and was conducted in a capricious manner. The amount of Rs. 54 received by the workman first party had been accounted for in the Seed Coffee Register of the Estate. The amount was also handed over to the Manager of the Estate on the same day. But the Manager had unfortunately failed to enter it in the Cash Register maintained by him. The fact that it was received by money order was known to the manager by virtue of a letter received from the party who remitted the cash and from the entry in the Seed Coffee Register and also when the cash was tallied during June 1968. A certificate has been duly issued by the Field Manager to the effect that the cash tallied with the Estate Accounts which included the sum of Rs. 54 referred to above. An entry has been made in June 1968 for the receipt of Rs. 54 as per the direction of the Manager. It can also be borne out by the letter dated 18th August 1968 written by the Manager to the employee. No charge of theft or misappropriation can be said to have been established against the workman first party. The charges thus framed are without any foundation and are under-misleading notions. The findings of the enquiry are patently perverse. Hence this petition.

4. The second party by its counter statement has submitted that the contentions of the first party are not correct. The auditor after going through the books submitted a report about mis-appropriation of Rs. 54 and it was only thereafter that a charge sheet was issued against the first party and enquiry held. Proper opportunity was given to the first party at the time of enquiry to examine the books and to cross-examine the witnesses examined in support of the second party. The first party failed to avail

himself of the opportunity. He has to thank himself. The enquiry held is proper and valid and is binding on the first party. The account books maintained by the first party employee establish the fact that he did not hand over the cash of Rs. 54 received by him to the management. It is only after the Auditors found out the mis-appropriation that disciplinary proceedings were initiated against the first party and he was found guilty of the charges alleged against him.

5. On these pleadings, the following issues are framed :—

(1) Whether the principles of natural justice have been violated by the Management in not calling for an explanation from Sri K. R. Ramadas before conducting the enquiry ?

(2) Whether the findings of the enquiry are perverse ?

(3) Whether the action of the management amounts to victimisation of employee and *malafide* ?

(4) Whether the dismissal is justified. If not, whether the employee is entitled for re-instatement with back wages and continuity of service ?

6. On the date of hearing, both the parties have filed a memo of settlement and submitted that the dispute between them has been settled amicably as per the terms of the settlement embodied in the settlement memo and award be passed accordingly.

7. On going through the memo of settlement, I am satisfied that the settlement is fair and to the benefit of the first party. Actually the second party management has agreed to reinstate the first party workman with continuity of service. It is reasonable and it will promote industrial peace between the workman and the management. Hence I pass the following award.

AWARD

Award is passed in terms of the joint memo of settlement which shall be annexure to the Award. Submit copy of the award to the Government as per Section 15 of the Industrial Disputes Act for needful action under Section 17 of the said Act. No order as to costs.

Dictated to the stenographer, transcribed and then pronounced in open Court this the 17th December 1970.

District Judge and
Ex-Officio *Presiding Officer,*
Labour Court, Chikmagalur.